## HOUSE BILL NO. 926

# INTRODUCED BY HOFFMAN BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

## IN THE HOUSE

FEBRUARY 18, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.

CONSENT CALENDAR, QUESTIONS AND ANSWERS.

FIRST READING.

FEBRUARY 23, 1991

COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

POSTED ON CONSENT CALENDAR.

FEBRUARY 25, 1991

FEBRUARY 26, 1991

ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 99; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991

FIRST READING.

MARCH 23, 1991

MARCH 28, 1991

APRIL 1, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 48; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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Heres BILL NO. 926 1 INTRODUCED BY 2 BY REQUEST OF THE DEPARTMENT OF HEALTH 3 AND ENVIRONMENTAL SCIENCES 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR VOLUNTARY 6 FILING OF PERFORMANCE BONDS FOR PROJECTS AND ACTIVITIES 7 8 AUTHORIZED BY WATER POLLUTION DISCHARGE PERMITS; AMENDING 9 SECTIONS 75-5-401 AND 75-5-402, MCA; AND PROVIDING EFFECTIVE 10 DATES." 11 STATEMENT OF INTENT 12 A statement of intent is required for this bill in order 13 to provide guidance to the board of health and environmental 14 sciences for the adoption of rules concerning the 15 disturbed by construction, sites 16 reclamation of modification, or operation of disposal systems for which a 17 performance bond or other surety is voluntarily filed by a 18 permit applicant or permittee pursuant to [section 3]. The 19 20 board's rules should establish criteria that the department 21 of health and environmental sciences shall apply in determining the requirements that are necessary for 22 individual permittees to achieve acceptable site reclamation 23 on a case-by-case basis and to prevent pollution of state 24 25 waters. The board's rules should also establish procedures



governing the release of bonds and other surety, including provisions for releasing a portion of a bond or other surety in situations in which acceptable reclamation and prevention of water pollution have been completed upon a portion of a site where a permitted pollutant discharge project has operated or a permitted activity has occurred.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 75-5-401, MCA, is amended to read:

10 "75-5-401. Board rules for permits. (1) The board shall
11 adopt rules:

12 (a) governing application for permits to discharge 13 sewage, industrial wastes, or other wastes into state 14 waters, including rules requiring the filing of plans and 15 specifications relating to the construction, modification, 16 or operation of disposal systems;

17 (b) governing the issuance, denial, modification, or 18 revocation of permits.

19 (2) The rules shall allow the issuance or continuance 20 of a permit only if the department finds that operation 21 consistent with the limitations of the permit will not 22 result in pollution of any state waters, except that the 23 rules may allow the issuance of a temporary permit under 24 which pollution may result if the department insures that 25 such permit contains a compliance schedule designed to meet

INTRODUCED BILL

applicable effluent standards and water quality 1 all standards in the shortest reasonable period of time. 2 З (3) The rules shall provide that the department may revoke a permit if the department finds that the holder of 4 the permit has violated its terms, unless the department 5 also finds that the violation was accidental and 6 unforeseeable and that the holder of the permit corrected 7 the condition resulting in the violation as soon as was 8 9 reasonably possible.

10 (4) The board may adopt rules governing reclamation of 11 sites disturbed by construction, modification, or operation 12 of disposal systems for which a bond is voluntarily filed by 13 a permittee pursuant to [section 3], including rules for the 14 establishment of criteria and procedures governing release 15 of the bond or other surety and release of portions of a 16 bond or other surety."

17 Section 2. Section 75-5-402, MCA, is amended to read: 18 "75-5-402. Duties of department. The department shall: 19 (1) issue, suspend, revoke, modify, or deny permits to 20 discharge sewage, industrial wastes, or other wastes into 21 state waters, consistently with rules made by the board;

(2) examine plans and other information needed to
determine whether a permit should be issued or suggest
changes in plans as a condition to the issuance of a permit;
(3) clearly specify in any permit any limitations

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1	imposed as to the volume, strength, and other significant
2	characteristics of the waste to be discharged; and
3	(4) establish as conditions to the issuance of permits
4	for which a performance bond or other surety is filed under
5	[section 3] certain reclamation requirements sufficient to
6	prevent pollution of state waters during and after operation
7	of the project or activity for which a permit is issued."
8	NEW SECTION. Section 3. Voluntary filing of
9	performance bond terms hearing. (1) A person who holds
10	or has applied for a permit pursuant to 75-5-401 may
11	voluntarily file a performance bond or other surety with the
12	department for an amount sufficient to enable the state to
13	reclaim the land disturbed by the project or activity
14	authorized by the permit in accordance with all permit
15	requirements and as needed to prevent pollution of state
16	waters.
17	(2) If the department determines that the bonding level

18 does not represent the present cost of reclaiming the 19 disturbed land according to the reclamation requirements 20 specified in the permit and the present cost of preventing 21 pollution of state waters, the department shall notify the 22 permittee and the permittee may modify the amount of the 23 bond to accurately reflect the present cost.

24 (3) The department may not release all or any portion25 of a performance bond or other surety filed pursuant to this

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section until reclamation of the disturbed land has been
 completed to the satisfaction of the department and the
 department has determined that pollution of state waters has
 not occurred. The department may initiate bond forfeiture
 proceedings if the permittee fails to satisfactorily reclaim
 the disturbed land or prevent pollution of state waters.

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7 (4) The department may not release a bond or other
8 surety filed pursuant to this section until the public has
9 been provided an opportunity for a hearing.

NEW SECTION. Section 4. Codification instruction.
[Section 3] is intended to be codified as an integral part
of Title 75, chapter 5, part 4, and the provisions of Title
75, chapter 5, part 4, apply to [section 3].

<u>NEW SECTION.</u> Section 5. Effective dates. (1) [Section
3 and this section] are effective on passage and approval.
(2) [Sections 1, 2, and 4] are effective October 1,
17 1991.

-End-

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HALESE BILL NO. 926 1 INTRODUCED BY 2 BY REQUEST OF THE DEPARTMENT OF HEALTH 3 4 AND ENVIRONMENTAL SCIENCES 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR VOLUNTARY FILING OF PERFORMANCE BONDS FOR PROJECTS AND ACTIVITIES 7 8 AUTHORIZED BY WATER POLLUTION DISCHARGE PERMITS: AMENDING 9 SECTIONS 75-5-401 AND 75-5-402, MCA: AND PROVIDING EFFECTIVE 10 DATES." 11 12 STATEMENT OF INTENT 13 A statement of intent is required for this bill in order 14 to provide guidance to the board of health and environmental 15 sciences for the adoption of rules concerning the reclamation of sites disturbed by construction, 16 modification, or operation of disposal systems for which a 17 18 performance bond or other surety is voluntarily filed by a permit applicant or permittee pursuant to [section 3]. The 19 20 board's rules should establish criteria that the department 21 of health and environmental sciences shall apply in 22 determining the requirements that are necessary for 23 individual permittees to achieve acceptable site reclamation on a case-by-case basis and to prevent pollution of state 24 25 waters. The board's rules should also establish procedures



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19 (2) The rules shall allow the issuance or continuance 20 of a permit only if the department finds that operation 21 consistent with the limitations of the permit will not 22 result in pollution of any state waters, except that the 23 rules may allow the issuance of a temporary permit under 24 which pollution may result if the department insures that 25 such permit contains a compliance schedule designed to meet

> THIRD READING -2- **HB 926** Consent Calendar

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1 all applicable effluent standards and water quality 2 standards in the shortest reasonable period of time. 3 (3) The rules shall provide that the department may revoke a permit if the department finds that the holder of 4 the permit has violated its terms, unless the department 5 finds that the violation was accidental and 6 also 7 unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was 8 reasonably possible. 9

10 (4) The board may adopt rules governing reclamation of sites disturbed by construction, modification, or operation 11 of disposal systems for which a bond is voluntarily filed by 12 13 a permittee pursuant to [section 3], including rules for the 14 establishment of criteria and procedures governing release 15 of the bond or other surety and release of portions of a 16 bond or other surety."

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(2) examine plans and other information needed to 22 determine whether a permit should be issued or suggest 23 changes in plans as a condition to the issuance of a permit; 24 (3) clearly specify in any permit any limitations 25

imposed as to the volume, strength, and other significant 2 characteristics of the waste to be discharged; and 3 (4) establish as conditions to the issuance of permits 4 for which a performance bond or other surety is filed under 5 [section 3] certain reclamation requirements sufficient to 6 prevent pollution of state waters during and after operation of the project or activity for which a permit is issued." 7 NEW SECTION. Section 3. Voluntary 8 filing of 9 performance bond -- terms -- hearing. (1) A person who holds 10 or has applied for a permit pursuant to 75-5-401 may 11 voluntarily file a performance bond or other surety with the 12 department for an amount sufficient to enable the state to 13 reclaim the land disturbed by the project or activity 14 authorized by the permit in accordance with all permit 15 requirements and as needed to prevent pollution of state 16 waters.

17 (2) If the department determines that the bonding level 18 does not represent the present cost of reclaiming the 19 disturbed land according to the reclamation requirements 20 specified in the permit and the present cost of preventing 21 pollution of state waters, the department shall notify the 22 permittee and the permittee may modify the amount of the 23 bond to accurately reflect the present cost.

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NEW SECTION. Section 4. Codification instruction.
[Section 3] is intended to be codified as an integral part
of Title 75, chapter 5, part 4, and the provisions of Title
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NEW SECTION. Section 5. Effective dates. (1) [Section
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1	HOUSE BILL NO. 926
2	INTRODUCED BY HOFFMAN
3	BY REQUEST OF THE DEPARTMENT OF HEALTH
4	AND ENVIRONMENTAL SCIENCES
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR VOLUNTARY
7	FILING OF PERFORMANCE BONDS FOR PROJECTS AND ACTIVITIES
8	AUTHORIZED BY WATER POLLUTION DISCHARGE PERMITS; AMENDING
9	SECTIONS 75-5-401 AND 75-5-402, MCA; AND PROVIDING EFFECTIVE
10	DATES."

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#### STATEMENT OF INTENT

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22 result in pollution of any state waters, except that the 23 rules may allow the issuance of a temporary permit under 24 which pollution may result if the department insures that

25 such permit contains a compliance schedule designed to meet

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Montana Legislative Council

**REFERENCE BILL** 

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